

responsible for the entire amount of the bond. The bond shall run to the respondent and be conditioned upon the payment of costs, including reasonable attorney's fees, for the respondent if the respondent shall prevail, and of any reparation award that may be issued by the Secretary against the complainant on any counterclaim asserted by respondent: *Provided*, That the furnishing of a bond may be waived at the discretion of the Secretary if the complainant is a resident of a country which permits the filing of a complaint in an administrative forum or its equivalent which is substantially similar to that provided under the Perishable Agricultural Commodities Act by a resident of the United States against a citizen of that country without the furnishing of a bond. Nothing in this section shall limit the discretion of the Secretary to deny such a waiver in order to effectuate the purposes of the Act or to protect the interests of the businesses concerned.

(c) *Service upon respondent; proof of service.* Upon receipt by the Fruit and Vegetable Programs of the formal complaint, the accompanying papers and the \$300 handling fee required by the Act, a copy thereof shall be served by the Fruit and Vegetable Programs upon the respondent in accordance with § 47.4. If the complaint is not in the proper form, the Fruit and Vegetable Programs shall return it and inform the complainant of the deficiencies therein.

(d) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, if the respondent so requests, be adjourned for a reasonable time to be determined by the examiner: *Provided*, That, if the amendment introduces a new or different cause of action, it must be filed within 9 months after the cause of action accrued. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the examiner or with the written consent of the adverse party.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 176, Jan. 3, 1991; 64 FR 38106, July 15, 1999]

§ 47.7 Report of investigation.

Where the facts and circumstances are deemed by the Deputy Administrator to warrant such action, the Fruit and Vegetable Programs shall serve upon each of the parties a copy of the report made by the Fruit and Vegetable Programs in connection with its investigation of the informal or formal complaint. Whenever the Secretary, or the Deputy Administrator, or the examiner deems it necessary, a supplemental investigation shall be made by the Fruit and Vegetable Programs and a copy of the report thereon shall be served upon the parties. If an answer is filed by respondent, a copy of any report or reports of investigation served upon the parties shall be filed with the Hearing Clerk and shall be considered as part of the evidence in the proceeding: *Provided*, That either party shall be permitted to submit evidence in rebuttal in the same manner as is provided in the regulations in this part for the submission of other evidence in the proceeding.

[24 FR 10055, Dec. 12, 1959]

§ 47.8 The answer.

(a) *Filing and service.* Within 20 days after service of the formal complaint, unless extension of time has been requested and granted, the respondent may file with the Fruit and Vegetable Programs, an answer, in triplicate, signed by the respondent or his attorney. A copy of the answer shall be served upon the complainant by the Fruit and Vegetable Programs as provided in § 47.4. If the answer includes a counterclaim, the answer shall be accompanied by the \$300 handling fee required by the Act for formal complaints.

(b) *Contents.* Such answer shall contain (1) a precise statement of the facts which constitute the grounds of defense, including any set-off or counterclaim, and shall specifically admit, deny, or explain each of the allegations of the complaint, unless respondent is without knowledge, in which case the answer shall so state; or (2) a statement that the respondent admits all of the allegations of the complaint; or (3) a statement containing an admission of liability in an amount less than that